

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION**

**PNC BANK, NATIONAL
ASSOCIATION,**

Plaintiff,

V.

**B & W LANDSCAPING &
EXCAVATING, LLC, CHRIS D.
BROTHERS, and TODD WARNER,**

Defendants.

[illegible]

CIVIL ACTION NO. 4:09-cv-00115
JUDGE HARRY S. MATTICE, JR.

CONSENT JUDGMENT

Before the Court is Plaintiff PNC Bank, National Association's ("PNC") Motion for Contempt and Sanctions ("Motion"; D.E. 17) against Defendants B&W Landscaping & Excavating, LLC ("B&W"), Chris D. Brothers, and Todd Warner. PNC also filed a Supplement to the Motion (D.E. 19). As evidenced by the signatures below of counsel for the parties, PNC and Defendants have agreed to the entry of this Consent Judgment to resolve the Motion and consent to the entry of this judgment by the Court.

At the request and with the consent of each of the parties to this action, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The Court finds that Defendants are in civil contempt for violation of the Consent Judgment and Order entered by the Court on March 23, 2010 (D.E. 15). The Court bases that finding on the Motion and documents submitted in support of it as well as the following findings. In Section 12 of the Consent Judgment and Order, Defendants agreed to be subject to a finding of civil contempt if they failed to make the payments required by the Consent Judgment and Order. Defendants failed to make the following payments required by the Consent Judgment and

Order and still have not made such payments: (1) The amount of \$26,761.69 by April 12, 2010; (2) the amount of \$10,000.00 by May 1, 2010; (3) the amount of \$10,000.00 by June 1, 2010; and (4) the amount of \$10,000.00 by July 1, 2010. Based on these findings, the Court further finds that the standard for civil contempt has been met and proved by Plaintiff.

2. Based on the Court's finding of civil contempt against Defendants, judgment is hereby rendered in favor of Plaintiff and against Defendants, jointly and severally, for the principal sum of Five Hundred Fifty Two Thousand Seven Hundred Sixty-Two and 65/100 Dollars (\$552,762.65), and attorney fees and costs in the amount of Forty Nine Thousand Eight Hundred Sixteen and 81/100 Dollars (\$49,816.81), for a total judgment in the amount of Six Hundred Two Thousand Five Hundred Seventy-Nine and 46/100 Dollars (\$602,579.46). This judgment is hereinafter referred to as the "Judgment."

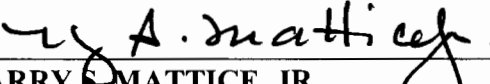
3. Post-judgment interest shall accrue upon the Judgment at a rate of 10% simple interest per annum, until the Judgment, plus interest, is paid in full.

4. This Judgment, plus post-judgment interest, is rendered against Defendants, jointly and severally.

5. Execution may issue on the Judgment and post-judgment interest.

6. This Consent Judgment resolves all claims and issues in this action and is the final order in this action.

It is so **ORDERED**, this 23rd day of July, 2010.



HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE

**CONSENTED, AGREED TO, APPROVED, AND
SUBMITTED FOR ENTRY AS JUDGMENT:**

/s/Robert S. Peters, By Permission

DATE: 7-22-10

Robert S. Peters (BPR# 3630)
SWAFFORD, PETERS, PRIEST & HALL
SunTrust Bank Building
100 First Avenue, S.W.
Winchester, Tennessee 37398-1728
Telephone: (931) 967-3888
Facsimile: (931) 967-2172
Email: rspeters@spphilaw.com

*Counsel for Defendants,
B&W Landscaping & Excavating, LLC,
Chris D. Brothers, and Todd Warner*

/s/Andrew J. Pulliam

DATE: 7-22-10

Andrew J. Pulliam (BPR# 16863)
WYATT, TARRANT & COMBS, LLP
2525 West End Avenue, Suite 1500
Nashville, Tennessee 37203-1423
Telephone: 615.244.0020
Facsimile: 615.256.1726
Email: apulliam@wyattfirm.com

*Counsel for Plaintiff
PNC Bank, National Association*